

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA and
STATE OF FLORIDA *ex rel.* OMNI
HEALTHCARE, INC.,

Plaintiffs,

v.

STEWARD HEALTH CARE SYSTEM
LLC; et al.,

Defendants.

Civil Action No. 3:21-CV-0870-S

**UNITED STATES' UNOPPOSED MOTION FOR LEAVE
TO FILE STATEMENT OF INTEREST**

1. On June 20, 2023, the Court unsealed this case filed by relator under the False Claims Act (FCA), 31 U.S.C. §§ 3729–3733, upon notification by the United States of America that it declined to intervene in the action. Although it has not intervened, the United States remains the real party-in-interest in this FCA case and has a vested interest in ensuring a correct application of the FCA.

2. On February 2, 2024, the Steward Defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) [ECF No. 79] and accompanying brief in support of their motion [ECF No. 80]. In their brief, the Steward Defendants raised certain contentions regarding the constitutionality of the FCA's *qui tam* provisions and the causation standard of the Anti-Kickback Statute (AKS), 42 U.S.C. § 1320a-7b, that require clarification. Specifically, the United States requests leave to submit a statement of interest

to clarify that the *qui tam* provisions of the FCA are constitutional, and that a relator need not plead but-for causation to state an FCA claim predicated on an AKS violation.

3. The proposed Statement of Interest is attached to this Motion as Exhibit A.
4. A proposed Order accompanies this motion.

Respectfully submitted,

BRIAN M. BOYNTON
PRINCIPAL DEPUTY ASSISTANT ATTORNEY
GENERAL

LEIGHA SIMONTON
UNITED STATES ATTORNEY

/s/ Richard J. Gultinan
RICHARD J. GULTINAN
Assistant United States Attorney
Texas Bar No. 24074332
1100 Commerce Street, Third Floor
Dallas, Texas 75242
Telephone: 214-659-8600
Facsimile: 214-659-8807
Email: richard.gultinan@usdoj.gov

JAMIE ANN YAVELBERG
DAVID B. WISEMAN
DAVID G. MILLER
Attorneys, Civil Division
U.S. Department of Justice
175 N Street N.E.
Washington, D.C. 20002
Telephone: 202-305-3231
Email: David.G.Miller@usdoj.gov

Attorneys for the United States of America

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with counsel for the Defendants and the Relator, and they have indicated that they are not opposed to the request for leave.

/s/ Richard J. Gultinan

Richard J. Gultinan

Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2024, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system and served upon all opposing parties, or their attorneys of record, by electronic delivery on this date.

/s/ Richard J. Gultinan

Richard J. Gultinan

Assistant United States Attorney